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## TRANSCRIPT OF RECORD

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Supreme Court of the United States

OCTOBER TERM, 1945

No. 234

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MISSISSIPPI PUBLISHING CORPORATION,  
PETITIONER,

vs.

DENNIS MURPHREE

---

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE FIFTH CIRCUIT

---

PETITION FOR CERTIORARI FILED JULY 17, 1945.

CERTIORARI GRANTED OCTOBER 8, 1945.

# SUPREME COURT OF THE UNITED STATES

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[fol. 1] [Captions omitted]

[fol. 2]

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI,  
WESTERN DIVISION**

No. 234 Civil

DENNIS MURPHREE, Plaintiff,

vs.

MISSISSIPPI PUBLISHING CORPORATION, Defendant

COMPLAINT—Filed August 17, 1944

Now comes plaintiff by his attorneys and brings this his suit against the defendant and as grounds therefor would show and represent unto the Court the following:

[fol. 3]

1

The plaintiff, Dennis Murphree, is a citizen of Calhoun County, Mississippi, in the Western Division of the Northern Judicial District of the State of Mississippi.

2

The defendant, Mississippi Publishing Corporation, is a corporation organized and existing under the laws of the State of Delaware with its domicile at No. 100 West 10th Street, Wilmington, Delaware. The defendant has duly qualified to engage in business in the State of Mississippi and is now and, at all times hereinafter mentioned, was doing business in Mississippi, and in all of the counties in said State, including those located in the Northern Judicial District thereof. B. M. Trapp of Duck Hill, Montgomery County, Mississippi, is an agent of defendant upon whom service of process may be had. Defendant's resident agent for service of process is H. V. Watkins, Jr., Standard Life Building, Jackson, Hinds County, Mississippi.

3

This is a suit of a civil nature, between citizens of different States, and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$3,000.00.



The defendant now owns and operates, and on the 25th day of July, 1944, and prior thereto, and at all times hereinafter mentioned, did own, and print, publish, sell and distribute throughout the State of Mississippi, and elsewhere, a number of newspapers, one of which newspapers is the "Jackson Daily News"; published at Jackson, Mississippi, and having a wide and general circulation throughout [fol. 4] out of the State of Mississippi, and elsewhere. The editor of said Jackson Daily News is now, and at all times hereinafter mentioned, was one Frederick Sullens, who, on July 25, 1944, and, at all times hereinafter mentioned, had full and complete control over, and was directly charged with and responsible for the formulation and carrying into effect of the editorial policies of said newspaper; and the said Frederick Sullens, on said date, and at all times hereinafter mentioned, was acting as the responsible agent and servant of the defendant corporation, and within the scope of the authority invested in him by said defendant.

In its said newspaper, the Jackson Daily News, the defendant published on July 25, 1944, and at all times hereinafter mentioned, did publish, on the front page thereof, an editorial column, prepared and edited by the said Frederick Sullens; the said column being captioned "The Lowdown On The Higher Ups". On July 25, 1944, the defendant Mississippi Publishing Corporation, by and through its officers, agents and servants controlling and directing the publication and distribution of the said newspaper "Jackson Daily News", and while acting as such agents and servants of said defendant, and within the scope of their authority, did on said day, print distribute and publish in the City of Jackson, Hinds County, Mississippi, and elsewhere throughout the State of Mississippi, a certain false and libelous statement of and concerning the plaintiff, which said false and libelous statement appeared on the front page of said newspaper of July 25th, 1944, and was prominently displayed thereon in the said column "The Lowdown On The Higher Ups", which said false and libelous statement was prepared and written by the said Frederick Sullens, for publication in said column "The Lowdown On The Higher

Ups", and which said false and libelous statement was as follows:

[fol. 5] "Dennis Murphree, discarded, discredited and despicable, is making motions like a man who wants to regain political power, which should be a sign for everybody to step to the rear and take a good puke. The Democratic party in Mississippi may be having some troubles but it surely does not need any of the damnable doctoring of Dennis Murphree. He is politically dead, rotten and well-nigh forgotten, even if he don't know it. Any person now willing to follow the leadership of Dennis Murphree ought to be sent over to the Whitfield hospital to have his head examined.";

the defendant, and the said Frederick Sullens, its agent and servant, then, and thereby, meaning and intending by use of the word "discarded" that plaintiff had been rejected and cast off as useless and worthless; and meaning and intending by use of the word "discredited" that plaintiff was unworthy of belief or confidence, that faith or belief in him had been destroyed, that his reputation had been injured and that disgrace and reproach had been brought upon him; and meaning and intending by use of the word "despicable" that plaintiff was fit to be despised, that he was contemptible, mean, vile and detestable, and deserved damnation; and meaning and intending by use of the words "politically rotten" that plaintiff was untrustworthy, treacherous, deceitful and corrupt.

Plaintiff would show that he is a native of Calhoun County, Mississippi; that he has always been a good, true, honest, just and faithful citizen and as such has always behaved and conducted himself; and in his native county of Calhoun and elsewhere throughout the State of Mississippi, prior to the publication by defendant of said false and libelous statement as aforesaid, he had always borne a good reputation and had been considered by those who [fol. 6] know him and by the public generally, as a true, honest, honorable and trustworthy citizen.

Although the foregoing matters alleged in this paragraph were well known to the defendant and to the said Frederick Sulens, the editor of its said newspaper, and its agent and

servant, yet the said defendant with intent to injure the reputation of the plaintiff, and to expose him to public ridicule, hatred, scorn and contempt, and to bring him into public scandal, disrepute, and disgrace; to degrade him in society and lessen him in public esteem, and lower him in the confidence and esteem of the people of the State of Mississippi and especially in the community in which he resides, did print, distribute and publish the said false and libelous statement, all as hereinbefore set forth in paragraph No. 5 hereof.

Plaintiff further avers that the words and language so used in said editorial so printed, distributed and published by the defendant as aforesaid, was by it, and by the said Frederick Sullens, the editor of its said newspaper and its agent and servant, known to be false, and untrue, and libelous per se; that the general and accepted use and meaning of the words "discarded, discredited, and despicable", as were used in the article so printed, distributed and published by the defendant, of and concerning the plaintiff as aforesaid, was to designate plaintiff as a man of dishonor, and as one who was unworthy of belief, and confidence, and who is vile and detestable, and fit to be looked down upon with disdain and scorn; that the general and accepted use and meaning of the words "politically rotten", as were used in said article so printed, distributed and published by the defendant of and concerning the plaintiff as aforesaid, was to designate plaintiff as a man who is untrustworthy, treacherous, deceitful and corrupt in character; and plaintiff [fol. 7] avers that said Frederick Sullens, editor of defendant's said newspaper and its agent and servant, intended that said words so used in said editorial as aforesaid, be so construed by those reading said article, and such construction of said words and language was so intended by the said editorial so printed, distributed and published by the defendant as aforesaid.

Plaintiff would further show that said editorial so printed, distributed and published of and concerning the plaintiff, as aforesaid, was untrue, and was so printed, distributed and published by the defendant, maliciously and in wanton

disregard of the truth, and has greatly shamed and humiliated the plaintiff.

Wherefore, plaintiff brings this his suit against the defendant for damages both actual and punitive, and demands judgment against the defendant in the sum of \$100,000.00.

Respectfully submitted, W. E. Gore, Rufus Creekmore, H. H. Creekmore, Attorneys for Plaintiff.

Creekmore & Creekmore, Of Counsel.

Summons issued to Creekmore & Creekmore, Attys, for Plaintiff, and Marshal's Return thereon, showing service on B. M. Trapp,

Summons issued to Creekmore & Creekmore, Attys, for Plaintiff, and Marshal's Return thereon showing service on H. V. Watkins, Jr.,

[fol. 8] Omitted from the printed record, pursuant to Rule 23 of this Court.

Creekmore and Creekmore, Attorneys at Law, Standard Life Building, Jackson, Mississippi

H. H. Creekmore, Rufus Creekmore, Wade H. Creekmore.

August 18, 1944.

Mr. H. D. Stephens, Clerk, Oxford, Mississippi

DEAR HUBERT:

Re: Murphree vs. Mississippi Publishing Corporation

Please file the enclosed demand for trial by jury which by oversight we failed to send you with the complaint.

Yours very truly, Creekmore and Creekmore, By H. H. Creekmore.

HHC/dp

[fol. 9] IN UNITED STATES DISTRICT COURT

DEMAND FOR JURY TRIAL—Filed August 19, 1944

Now comes the plaintiff by his attorneys and demands a trial by jury of all issues in this cause.

Respectfully, W. E. Gore, Creekmore & Creekmore,  
Attorneys for Plaintiff.

IN UNITED STATES DISTRICT COURT

DEFENDANT'S MOTION TO DISMISS—Filed September 6, 1944

Comes the Mississippi Publishers Corporation, Defendant in the above entitled cause, by its attorneys, and entering its special appearance solely and only for objecting to jurisdiction over it by the Court, shows unto the Court that the Defendant is a foreign corporation, existing under the laws of the State of Delaware, domiciled in Wilmington, in said State. That its principal and only office and place of business, in the State of Mississippi is at Jackson, in the First Judicial District of Hinds County, Mississippi, within the jurisdiction of the United States District Court for the Southern District of Mississippi. That the Defendant has never been domesticated under the laws of the State of Mississippi; that it has appointed, in accordance with the laws thereof, an agent for service of process, to wit H. V. Watkins, Jr., a resident of the First Judicial District of Hinds County, Mississippi; that it has not transacted any business in the Northern District of Mississippi within the [fol. 10] jurisdiction of this Court; that it has no office, officer, agent or servant in the Northern District of Mississippi; that the cause of action which the Plaintiff has against the Defendant, if any at all, which is denied, accrued and arose in the Southern District of the State of Mississippi, and not in the Northern, and no part thereof occurred, accrued or arose in the Northern District of Mississippi; that the Defendant is not a resident of the Northern District of the State of Mississippi; that it has no agent in the Northern District of Mississippi upon whom service of process may be had; that there is no other Defendant named in said cause except this Defendant, and process could not therefore be issued to the United States



Marshal of the Southern District of Mississippi for service on this Defendant.

The Defendant shows unto the Court that the Plaintiff is not a resident or inhabitant of the Northern District of Mississippi, but is a resident citizen and inhabitant of the Southern District of Mississippi, in the First Judicial District of Hinds County, Mississippi.

Wherefore, the Defendant says:

First

This Court has no jurisdiction over the subject matter.

Second

This Court has no jurisdiction over the person of the Defendant.

Third

The venue in the case is improperly laid.

[fol. 11]

Fourth

The process issued is insufficient and void under the law.

Fifth

The attempted service on the defendant is insufficient.

Wherefore, the Defendant moves the Court to dismiss the Plaintiff's complaint for all of the reasons hereinabove set out.

Mississippi Publishers Corporation, by Watkins & Eager, by Watkins & Avery, Attorneys for Defendant.

The Plaintiff and his attorneys of record will take notice that the Defendant will present the foregoing Motion to Dismiss plaintiff's complaint, with proof attached, before the Honorable Allen Cox, United States District Judge, at Oxford, Mississippi, in the United States District Court Room on September 21st, 1944, at 10 o'clock A. M., or as soon thereafter as may be convenient to the Court and counsel.

Signed this, the 5th day of September, 1944.

Mississippi Publishers Corporation, by Watkins & Eager, by Watkins & Avery, Attorneys for Defendant.

[fol. 12] I, William H. Watkins, of counsel for the Defendant in the above entitled cause, certify that I have this day sent by United States mail, postage prepaid, to Creekmore & Creekmore, Attorneys at Law, Standard Life Building, Jackson, Mississippi, and to W. E. Gore, Deposit Guaranty Bank Building, Jackson, Mississippi, Plaintiff's Attorneys, a true and correct copy of the foregoing Motion, with proof attached.

Signed this 5th day of September, 1944.

W. H. Watkins.

STATE OF MISSISSIPPI

APPLICATION FOR HOMESTEAD EXEMPTION

STATE AND COUNTY TAXES, 1942  
(MADE UNDER THE PROVISIONS OF CHAPTER 127, LAWS OF 1940)  
TO BE FILED WITH COUNTY TAX ASSESSOR  
BEFORE JUNE 1, 1943

Hinds

COUNTY

I, Dennis (None) Murphy of Robinson Rd Jackson Miss.  
(First Name) (Middle or Maiden Name) (Last Name) (Street Address) (Post Office)  
do hereby make application to the Board of Supervisors of said county for exemption from 1942 maintenance taxes on the property described as follows:

	DESCRIPTION	A.	T.	R.	Number Acres	Number and Kind of Buildings
1.	<u>2.5a 6<sup>2</sup> E<sup>2</sup> B<sup>2</sup> d</u> (Line or show line the assessment on which dwelling is located)					
2.	<u>by Road</u>	<u>6</u>	<u>5</u>	<u>16</u>	<u>2.5</u>	<u>1 Res.</u>
3.						
4.						
5.						
6.						

following statements are made and sworn to in support of this application:

1. Is the full-time and only home of your family group located on the above property, and did you actually reside therein January 1, 1942? Answer Yes or No yes  
If not, answer Question 14 below.

2. Do you or your family group maintain a home in any other state? Answer Yes or No no

3. Marital status on January 1, 1942. Check: Married ( ☒ ) Widowed ( ) Widower ( ) Single ( ) Divorced ( )  
If married, give full name of wife or husband Clara Martin Murphy (First Name) (Middle or Maiden Name) (Last Name)

4. Race. Check: White ( ☒ ) Colored ( )

5. Is the title to this property in your own name alone? Answer Yes or No yes  
If not, give full names of all owners.

Do any joint owners secure Homestead Exemption on other property? If so, when \_\_\_\_\_

6. How did you acquire this property? Check: Deed ( ☒ ) Court Decree ( ) Lease of School Lands ( ) Will ( )  
Contract or Conditional Agreement ( ) Date Acquired 1925 Recorded in Book 160 Page 329  
If acquired by inheritance without will, check ( ) and answer Question 13 below.  
If acquired after July 1, 1938, answer Question 13 below.

7. Do you, by your own effort or by personal supervision of tenants, produce crops on this land from which a substantial portion of your family living is derived? Answer Yes or No no

8. Did you secure an exemption on this dwelling in 1938? ( yes ), 1939? ( yes ), 1940? ( no ), 1941? ( yes )

9. Does any of this property lie in an incorporated municipality? Answer Yes or No no  
If so, does all the land join? Answer Yes or No yes

10. Is any part of your dwelling house used for any commercial, professional or other business activities? Answer Yes or No no  
If so, explain in detail \_\_\_\_\_

11. Is dwelling divided into apartments, each composing a separate living unit? Answer Yes or No no  
If so, number of such units, including the one you occupy? \_\_\_\_\_

12. Do you rent any bedrooms or have any boarders? Answer Yes or No no  
If so, number of rooms rented \_\_\_\_\_ Number of boarders or paying guests \_\_\_\_\_

13. If any of the property was acquired after July 1, 1938:  
(a) From whom was it acquired? \_\_\_\_\_  
(b) Did you, with your own means, pay in full for it before January 1, 1942? Answer Yes or No \_\_\_\_\_  
(c) If not, who financed the transaction for you? \_\_\_\_\_  
(d) Full purchase price or cost to you? \$ \_\_\_\_\_ Unpaid principal January 1, 1942 \$ \_\_\_\_\_

14. If answer to Question No. 1 above is "No," answer A, B, or C, below:  
(a) If application is filed under Section 6(e) of the law, what relation are you to the persons living in the home? \_\_\_\_\_  
Are they wholly dependent upon you for support? Answer Yes or No \_\_\_\_\_  
(b) If application is filed under Section 9(d) of the law, how much time each year do you spend in the home? \_\_\_\_\_  
Is any revenue received or promised by others for use of the property? \_\_\_\_\_  
Do you own or maintain a home elsewhere? \_\_\_\_\_  
(c) Is application filed under Section 9(i) of the law? \_\_\_\_\_

15. If this property was acquired by inheritance without will, state:  
Full name of deceased owner \_\_\_\_\_ Date of death \_\_\_\_\_  
How and when did the deceased acquire title? \_\_\_\_\_ Date \_\_\_\_\_  
What is your relation to the deceased? \_\_\_\_\_

Witness my hand and subscribed before me this 2 day of May 1942  
C. C. Speight  
(Title of Officer) D. R.

By: Dennis Murphy  
(Signature) (Attorney—Agent—Guardian)

If signed by attorney, agent or guardian, indicate which and attach certified copy of authority or give every number.

The application on the reverse side hereof has, this the

day of

Nov 2 1942

194

*Allowed*  
(Allowed or Disallowed)

by the Board of Supervisors of said county as shown below

*H. A. Canada*  
(President, Board of Supervisors)

## ENTRY OF ALLOWANCES BY BOARD AND BY STATE TAX COMMISSION

Item	Page No.	Line No.	Number Acres	Assessed Value Land	Assessed Value Buildings	Tax Dollars Allowed	Real Dollars	School Dollars
1.	1127	4	2 <sup>5</sup>	500	3000	2500	14 5	<i>None</i>
2.								
3.								
4.								
5.								
6.								
TOTAL								

THE STATE OF MISSISSIPPI,

COUNTY OF HINDS

I, Frank T. Scott, Clerk of the Chancery Court, hereby certify that the above is a true copy of that certain Application for Homestead Exemption of State and County Taxes for the year of 1942 of Dennis Murphree, Robins Road, Jackson, Mississippi, as same now in my office at Raymond, Second District of Hinds County, Mississippi.

Given under my hand and seal of office this the 25th day

1944.

Frank T. Scott, Chancery Clerk

By A. R. EppersonA. R. Epperson, D. C. 2nd Dist.  
Hinds County, Mississippi

Hinds

COUNTY

STATE AND COUNTY TAXES, 1942-3  
(MADE UNDER THE PROVISIONS OF CHAPTER 127, LAWS OF 1940)  
TO BE FILED WITH COUNTY TAX ASSESSOR  
BEFORE JUNE 1, 1942

1. Dennis (none) Murphree Robinson R. Jackson  
(First Name) (Middle or Maiden Name) (Last Name) (Street Address) (Office)  
herby make application to the Board of Supervisors of said county for exemption from 1942 maintenance taxes on the property described as follows:

Item	DESCRIPTION	A.	T.	R.	Number Acres	Number and Kind of Buildings
1.	2.5 ac. S 26 2 E 2 S of					
2.	Road	6	5	16	25	1 Res.
3.						
4.						
5.						
6.						

The following statements are made and sworn to in support of this application:

- Is the full-time and only home of your family group located on the above property, and did you actually reside thereon January 1, 1942? yes  
If not, answer Question 14 below. Answer Yes or No yes
- Do you or your family group maintain a home in any other state? Answer Yes or No no
- Marital status on January 1, 1942? Check: Married (X) Widower ( ) Widowed ( ) Single ( ) Divorced ( )  
If married, give full name of wife or husband Clara Martin Murphree  
(First Name) (Middle or Maiden Name) (Last Name)
- Race: Check: White (X) Colored ( )  
Is the title to this property in your own name alone? Answer Yes or No yes  
If not, give full names of all owners.
- Do any joint owners secure Homestead Exemption on other property? If so, where.
- How did you acquire this property? Check: Deed (X) Court Decree ( ) Lease of School Lands ( ) Will ( )  
Contract or Conditional Agreement ( ). Date Acquired 1925 Recorded in Book 160 Page 329  
If acquired by inheritance without will, check ( ) and answer Question 15 below.  
If acquired after July 1, 1938, answer Question 15 below.
- Do you, by your own effort or by personal supervision of tenants, produce crops on this land from which a substantial portion of your family living is derived? Answer Yes or No no
- Did you secure an exemption on this dwelling in 1938? (yes), 1939? (yes), 1940? (yes) 1941? (yes) 1942? (yes)  
Does any of this property lie in an incorporated municipality? Answer Yes or No no
- If so, does all the land join? Answer Yes or No yes
- Is any part of your dwelling house used for any commercial, professional or other business activities? Answer Yes or No no  
If so, explain in detail.
- Is dwelling divided into apartments, each composing a separate living unit? Answer Yes or No no  
If so, number of such units, including the one you occupy?
- Do you rent any bedrooms or have any boarders? Answer Yes or No no  
If so, number of rooms rented. Number of boarders or paying guests.
- If any of the property was acquired after July 1, 1938:  
(a) From whom was it acquired?  
(b) Did you, with your own means, pay in full for it before January 1, 1942?  
(c) If not, who financed the transaction for you? Answer Yes or No no  
(d) Full purchase price or cost to you? \$ Unpaid principal January 1, 1942? \$
- If answer to Question No. 1 above is "No," answer A, B, or C, below:  
(a) If application is filed under Section 6(e) of the law, what relation are you to the persons living in the home? Are they wholly dependent upon you for support? Answer Yes or No no  
(b) If application is filed under Section 9(d) of the law, how much time each year do you spend in the home? Is any revenue received or promised by others for use of the property?  
Do you own or maintain a home elsewhere?
- Is application filed under Section 9(i) of the law?  
If this property was acquired by inheritance without will, state:  
Full name of deceased owner. Date of death.  
How and when did the deceased acquire title? Date.  
What is your relation to the deceased.

and subscribed before me this 24 day May 1943  
C. D. Spight  
(Title of Officer)

By: Dennis Murphree  
(Signature)  
If signed by attorney, agent or guardian, indicate which and attach certified copy of authority or give exact number.



The application on the reverse side hereof has, this the Sep 8 - 1943 day of 1943  
 been Allowed (Allowed or Disallowed) by the Board of Supervisors of said county as shown below.

H. A. Cannada  
 (President, Board of Supervisors)

ENTRY OF ALLOWANCES BY BOARD AND BY STATE TAX COMMISSION

Item	Page No.	Line No.	Number Acres	Assessed Value Land	Assessed Value Buildings	Total Assessment Allowed	Real Estate	School District
1.	1127	4	2.5	500	2000	2500	145	Township 9 N
2.								
3.								
4.								
5.								
6.								
TOTAL								

THE STATE OF MISSISSIPPI,  
 COUNTY OF HINDS

I, Frank T. Scott, Clerk of the Chancery Court, hereby certify that the above is a true copy of that certain Application for Homestead Exemption of State and County Taxes for the year of 1943 of Dennis Murphree, Robins Road, Jackson, Mississippi, as same now in my office at Raymond, Second District of Hinds County, Mississippi.

Given under my hand and seal of office this the 25th day  
 1944.

Frank T. Scott, Chancery Clerk

By A. R. Epperson  
 A. R. Epperson, D. C. 2nd Dist.  
 Hinds County, Mississippi.

## APPLICATION FOR HOMESTEAD EXEMPTION

STATE AND COUNTY TAXES, 1944

(MADE UNDER THE PROVISIONS OF CHAPTER 127, LAWS OF 1940 AND AMENDMENTS)  
DUPLICATE RETAINED BY THE CLERK

Hinds

COUNTY

Dennis (None) Murphree

White (X)  
Colored ( )

Robinson Rd. Jax

(First Name)

(Middle Name)

(Last Name)

(St. Address)

(Post Office)

I hereby make application to the Board of Supervisors of said County for Exemption from 1944 maintenance taxes on the property described below. All statements are as of January 1, 1944, as the law requires.

Item	DESCRIPTION	S.	T.	R.	No. Acres	Number and Kind of Buildings
1	194 7 ft. S/A Robinson Rd. x (Line on above line the monument on which building is located)	6	5	1 E 2.5	1 Res.	
2	560.4 ft. N & S. SE Cor SE4 NE4 & NE					
3	Cor NE4 SE4					
4						
5						
6						
7						

(1) I am (or am not) a bona fide, legal resident of Mississippi Yes (X) No ( )

(2) I am married (X), widow ( ), widower ( ), single ( ), divorced ( ), separated ( ).

(3) My wife's (or husband's) full name is (or is separated)

Wlars Martin Murphree

First Name

Middle or Maiden

Last

(4)-(a) Legal title to all this property is (or is not) in my own name alone Yes (X) No ( )

(b) The full names of all other joint owners are

First Name

Middle or Maiden

Last

First Name

Middle or Maiden

Last

(If additional names, show on back)

(5)-(a) This property was acquired by deed (X), court decree ( ), loss of school lands ( ), will ( ), or contract or conditional agreement or conveyance ( )

Date of Acq. 1925 Rec. Bk. 160 Pg. 329

Rec. Bk. Pg.

Or (b) it was acquired by inheritance without will from

First Name Middle or Maiden Last

who was my Relationship to me who died Date

and whose title was acquired by Deed or Inheritance Date

dated Year Recorded, Book Page

(6)-(a) The Property listed above as item No. was acquired after July 1, 1938, from

(b) The full price or cost to me of land and improvements was \$ principal.

(c) I have paid thereon \$ leaving balance on Jan. 1, 1944, of \$ principal.

(d) It was financed for me by

(7) Part of the land lies (or does not) in an incorporated municipality All the land joins (or does not) Yes (X) No ( )

(8)-(a) This is (or is not) the full time and only home of my family group, wherein we reside continuously, (or) Yes (X) No ( )

(b) This application is filed under Sec. 6 (a) and the persons living in this home are my

Relationship to me They are (or are not) wholly dependent on me for support, (or) Yes ( ) No ( )

(c) This application is filed under Sec. 9 (d). During each year my family group occupies the home (or does not) Number Yes ( ) No ( )

(d) Rental is not (or is) received from or premised by others for use of all ( ) or part ( ) of the property No (X) Yes ( )

(9)-(a) The dwelling is occupied (for housekeeping) by 0 family groups other than my own, or Number

(b) 0 rooms are rented to 0 people for dormitory use only; No meals prepared or served and no equipment or arrangement for preparing and serving meals.

(c) We have 0 table boarders. Number

(10) Part of the property (land or buildings) is (or is not) used for commercial, professional or other business activity. No (X) Yes ( ) (If so used, explain on back)

(11) Exemption was granted on this property for 1943 to

First Name Middle or Maiden Last

(12)-(a) Agricultural crops, from which a substantial part of my family support is derived, (Sec. 5 (g) of the law) are (or are not) regularly produced hereon by our own work or by personal, legal supervision of share croppers or wage hands Yes ( ) No (X)

(b) Part of the property is (or is not) rented or leased to others No (X) Yes ( )

(c) The dwelling is (or is not) included in the rented part No (X) Yes ( )

The applicant herein has, in person, sworn up and signed this application

before me on this 3 day of

Key

1944

Mrs. Clinton Hester, D.A.

Tax Assessor, or

By:

Dennis Murphree

(Under Signature of Applicant)

The above Statements are made and sworn to by me as being true and correct and as the basis of this application.

If signed by attorney, agent or guardian, indicate which and attach certified copy of authority or give name number.

The application on the reverse side hereto has, this the \_\_\_\_\_ day of \_\_\_\_\_, 1944  
been \_\_\_\_\_ by the Board of Supervisors of said county as shown below.  
(Allowed or Disallowed)

(Position, Board of Supervisors)

ENTRY OF ALLOWANCES BY BOARD OF SUPERVISORS

Item	Page No.	Line No.	Number Approved	Amount Value Land	Amount Value Buildings	Total Amount Allowed	Amount of Amount Not Allowed	Kind Disallow	School Disallow
1									
2									
3									
4									
5									
6									
TOTAL									

Frank T. Scott, Chancery Clerk  
D.C. *Wm. Scott*

1944.

I, Frank T. Scott, Clerk of the Chancery Court of the aforesaid County and State, do hereby certify that the above and foregoing is a true and correct copy of HONESTY EXEMPTION as appears on file in my office. Given under my hand and official seal, this the 24th day of August,

STATE OF MISSISSIPPI  
COUNTY OF HINDS

CLEAR'S CERTIFICATE

## [fol. 19] Application for Homestead Exemption

State and County Taxes, 1941

(Made Under the Provisions of Chapter 127, Laws of 1940)

To Be Filed With County Tax Assessor Before June 1, 1941

STATE OF MISSISSIPPI,

Hinds County:

I, Dennis (first name) (None) (middle name) Murphree (last name), of Robinson Rd. (Street address), Jackson, Miss. (Post office), hereby make application to the Board of Supervisors of said county for exemption from 1941 maintenance taxes on the property described as follows:

## Item 1.

Description: 2.5a E2 E2 E2 S of Road (List on above line the assessment on which dwelling is located).

S. 6.

T. 5.

R. 1E.

Number acres:

Number and Kind of Buildings: 1 Res.

## Item

2.

3.

[fol. 20] 4.

5.

6.

The following statements are made and sworn to in support of this application:

1. Is the full-time and only home of your family group located on the above property, and did you actually reside thereon January 1, 1941? Answer Yes or No. Yes. If not, answer Question 14 below.

2. Do you or your family group maintain a home in any other State? Answer Yes or No. No.

3. Marital status on January 1, 1941. Check: Married (X), Widow ( ), Widower ( ), Single ( ), Divorced ( ).

If married, give full name of wife or husband. Clara (first name) Martin (Middle or Maiden Name) Murphree (Last Name).

4. Race. Check: White (X), Colored ( ).

5. Is the title to this property in your own name alone? Answer yes or No. Yes.

If not, give full names of all owners.

6. How did you acquire this property? Check: Deed (X), Court Decree ( ), Lease of School Lands ( ), Will ( ), Contract or Conditional Agreement ( ). Date Acquired 1925 Recorded in Book Page . If acquired by inheritance without will, check ( ) and answer Question 15 [fol. 21] below. If acquired after July 1, 1938, answer Question 13 below.

7. Do you, by your own effort or by personal supervision of tenants produce crops on this land from which a substantial portion of your family living is derived? Answer Yes or No. No.

8. Did you secure an exemption on this dwelling in 1938? (No), 1939? (Yes), 1940? (Yes).

9. Does any of this property lie in an incorporated municipality? Answer Yes or No. No.

If so, does all the land join. Answer Yes or No.

10. Is any part of your dwelling house used for any commercial, professional or other business activities? Answer Yes or No. No.

If so, explain in detail.

11. Is dwelling divided into apartments, each composing a separate living unit? Answer Yes or No. No.

If so, number of such units, including the one you occupy?

12. Do you rent any bedrooms or have any boarders? Answer Yes or No. No.

If so, number of rooms rented . . . . . Number of boarders or paying guests . . . . .

13. If any of the property was acquired after July 1, 1938:



[fol. 22] (a) From whom was it acquired?

(b) Did you, with your own means, pay in full for it before January 1, 1941? Answer Yes or No.

(c) If not, who financed the transaction for you?

(d) Full purchase price or cost to you? \$  
Unpaid principal January 1, 1941? \$

14. If answer to Question No. 1 above is "No", answer a, b, or c below:

(a) If application is filed under Section 6 (e) of the law, what relation are you to the persons living in the home?

Are they wholly dependent upon you for support? Answer Yes or No.

(b) If application is filed under Section 9 (4) of the law, how much time each year do you spend in the home?

Is any revenue received or promised by others for use of the property?

Do you own or maintain a home elsewhere?

(c) Is application filed under Section 9 (i) of the law?

15. If this property was acquired by inheritance without will, state:

Full name of deceased owner

Date of death. How and when did the deceased acquire title? Date

[fol. 23] What is your relation to the deceased?

Full names of any other heirs

Sworn to and subscribed before me this the 7 day of Jan., 1941. C. O. Speight, C. A. (Title of Officer).

Dennis Murphree (Usual Signature of Applicant),  
by — — —, Signature (Attorney—Agent—Guardian).

If signed by attorney, agent or guardian, indicate which and attach certified copy of authority or give cause number.  
441 - 16.

The application on the reverse side hereof has, this the day of Sep. 2, 1941, been Allowed or Disallowed by the Board of Supervisors of said county as shown below.

H. A. Cannada, President, Board of Supervisors.

## Entry of Allowances by Board and by State Tax Commission

Item 1.

Page No.: 441.

Line No.: 16.

Number Acres: 25.

Assessed Value Land: 500.

[fol. 24] Assessed Value Buildings: 2000.

Total Exemption Allowed: 2500.

Road Districts: 1 &amp; 5 Rd.

School Districts: None.

Item

2.

3.

4.

5.

Total

## CLERK'S CERTIFICATE

STATE OF MISSISSIPPI,  
County of Hinds:

I, Frank T. Scott, Clerk of the Chancery Court of the  
aforenamed County and State, do hereby certify that the  
above and foregoing is a true and correct copy of Home-  
stead Exemption as appears on file in my office.

Given under my hand and official seal this the 24th day  
of August, 1944.

Frank T. Scott, Chancery Clerk, by Dee Chastang,  
D. C. (Seal.)

[fol. 25] AFFIDAVIT OF MRS. MARIETTA BISHOP

STATE OF MISSISSIPPI,  
Hinds County:

Personally came before me, the undersigned officer in  
and for the aforesaid State and County; the within named  
Mrs. Marietta Bishop, who by me being sworn, makes oath  
that she is 41 years of age. That prior to her marriage her  
name was Marietta French, and that she is a native of Hinds  
County, Mississippi. That she is by occupation a stenog-

rapher, bookkeeper and clerical assistant. That about the year 1930, she entered the employ of the Walthall Hotel in Jackson, Mississippi, which was then being operated by the A. H. Alvis Company, a lessee. In the year 1931 the Walthall Hotel Company, the owner of such corporation, took over the management thereof. Mr. E. O. Spencer, of Jackson, Mississippi, was and is a large stockholder in said company and was then Vice-President and General Manager of said hotel. That affiant became well acquainted with Lt. Governor Dennis Murphree at that time. That he was engaged in business with Mr. E. O. Spencer and Mr. John Spencer under the firm style and name of Spencer, Murphree & Spencer. That such partnership conducted a general insurance agency, negotiating contracts of fire, fidelity, surety and casualty insurance. That the office of said partnership was on the second floor in the Walthall Hotel, and there Governor Murphree had his office and remained transacting said partnership business in and about said office. That affiant while in the employ of the Walthall Hotel, was a bookkeeper, stenographer and general assistant of the Manager; that she frequently had occasion to go to the office of Spencer, Murphree & Spencer, was well acquainted with them all, and upon occasion did stenographic work for Governor Murphree in the office of the firm; that she saw and was well acquainted with the stationery used in the office, and upon the stationery was printed the name of the firm, Spencer, Murphree & Spencer [fol. 26] with the names of the individual member of the partnership printed thereupon; which included the name of Governor Murphree. That she became at that time acquainted with Governor Murphree's family; that they had a home out on the Robinson Road, where Governor Murphree and his family lived. His family consisted of himself and his wife, Mrs. Murphree, and four children, one son and three daughters. Affiant was personally acquainted with the members of the family. The four children were young when Governor Murphree moved to Jackson and they received their education, all of them, in the public schools of Jackson, Mississippi, which they attended. That whether they went off to college or not affiant is unable to say, but affiant is well acquainted with the fact that the Murphree family had a well-established home, where they resided and lived continuously, near the City of Jackson. One of Governor Murphree's daughters taught in the city schools

of Jackson, Mississippi, for a number of years. One of his daughters was in the employ of the Department of Archives and History in Jackson, Mississippi. Affiant left the employ of the Walthall Hotel in 1939, and the firm of Spencer, Murphree & Spencer was still in existence, carrying on business in offices on the second floor of the Walthall Hotel in Jackson, Mississippi, where Governor Murphree had occupied and maintained an office, to the knowledge of affiant, for many years. Affiant knows that the Murphree family had kin folks in Calhoun County, Mississippi; knows that they went back to Calhoun County to vote, but never heard Governor Murphree at any time make a statement of any intention to return to Calhoun County to make his home. Affiant further knows that Governor Murphree still maintains his office on the second floor of the Walthall Hotel, and has continuously occupied such office to affiant's knowledge, since the year 1931. Affiant does not know as to whether or not the firm of Spencer, Murphree & Spencer is still in existence or not. For a number of years Governor Murphree was engaged, in the City of Jackson, in conducting travel tours under the firm style and name of "Know Mississippi Better", or "Spencer-Murphree Tours"; that such tours were organized, managed and conducted from the office of Governor Murphree on the second floor of the Walthall Hotel. Affiant cannot state what year the operation of said tours began, but knows that the same were conducted for several years, up to about two years ago.

Affiant has turned to the telephone book of the City of Jackson and finds that Governor Murphree carries a telephone at his residence near the City of Jackson, being number 4-4190; that Governor Murphree has carried a telephone at his residence in his own name ever since he has resided in or near the City of Jackson, Mississippi; that the Spencer-Murphree Tours has always had, since its organization, a telephone in the City of Jackson, the telephone number at the present time being 2-0634; that in the 1943 edition of the Jackson, Mississippi, City Directory, at page 440, is found the following:

"Murphree Dennis (Clara) Lt Gov State of Miss & (Murphree-Ford Trav Bureau) h Robinson Rd

"Murphree Ford Travel Bureau (Dennis Murphree) 205 Walthall Hotel."

Affiant states that the same information in respect to Governor Dennis Murphree and his family has been inserted and will be found in each and every Directory of the City of Jackson since Governor Murphree began business in said city.

Affiant is informed that Governor Murphree and the members of his family are now and for many years have been members of the Capitol Street Methodist Church, Jackson, Mississippi.

Marietta Bishop.

[fol. 28] Sworn to and subscribed before me this, the 5th day of September, 1944. John Putnam, Notary Public. (Seal.) My Commission Expires April 29, 1948.

#### AFFIDAVIT OF WALTER G. JOHNSON

STATE OF MISSISSIPPI,  
County of Hinds:

Personally came before me, the undersigned officer, in and for the aforesaid State and County, the within named Walter G. Johnson, who by me being duly sworn, makes oath that he is an officer and agent of and for the Mississippi Publishers Corporation, erroneously used as "Mississippi Publishing Corporation", in the above entitled case. That he is the Treasurer of said corporation and is the proper person to make this affidavit; that in such capacity the affiant has custody and control of the books, records and papers of said corporation.

The said Walter G. Johnson further makes oath that the Mississippi Publishers Corporation is a foreign corporation, organized under the laws of Delaware, and domiciled at Wilmington, in said State; that it has never surrendered its charter or became domiciled under the laws of the State of Mississippi, or any other State than that of its creation. Affiant states, however, that the said Mississippi Publishers Corporation, defendant in the above entitled suit, has been duly admitted to carry on business in the State of Mississippi and, as a condition precedent thereto, in accordance with the laws of the State of Mississippi, has appointed H. V. Watkins, otherwise known as H. V. Watkins, Jr., an actual citizen and resident of the First Judicial District of [fol. 29] Hinds County, Mississippi, as its agent for service



of process; that it has no other agent for service of process anywhere in the State of Mississippi.

Affiant states that the principal office and place of business of the said company is situated in the City of Jackson, in the First Judicial District of Hinds County, Mississippi, where its officers reside, as well as its agent for service of process, where its books, records and papers are kept, and all of its business transacted and carried on and direction given for the carrying on of the business of said corporation.

Affiant states that it has never at any time, either prior to or since the commission of the alleged wrongs complained of in plaintiff's complaint, been engaged in any business whatsoever of any kind in the Northern District of the State of Mississippi; that it has never had or maintained an office, or place of business, any officer, agent, or servant, in the Northern District of Mississippi; that it has never at any time had any agent in the Northern District of Mississippi within the jurisdiction of this Court upon whom service of process could be had.

Affiant alleges that the said Mississippi Publishers Corporation is engaged, exclusively, in the publication of newspapers wholly published by the said defendant in the City of Jackson, in the First Judicial District of Hinds County, Mississippi; that the newspaper published by the defendant containing the publication complained of in this case was not published in the Northern District of Mississippi, but was composed, issued, delivered and circulated in the City of Jackson, in the First Judicial District of Hinds County, Mississippi, at the principal place of business of defendant, where the newspapers complained of were printed, published, issued, circulated and first read, all of which took place in the City of Jackson, in the First Judicial District of Hinds County, Mississippi, no part of which took place within the Northern District of Mississippi within the jurisdiction of this Court.

Affiant states that the said Mississippi Publishers Corporation has at no time carried on any business whatsoever in the Northern District of Mississippi, and that if the plaintiff has any cause of action against this defendant by reason of the publication complained of, which is denied, that the same did not arise, occur or accrue in the Northern District of Mississippi, but in the City of Jackson, in the First Judicial District of Hinds County, Mississippi, where

said newspaper was composed, printed, published, circulated, issued and first read; that if the said newspaper containing the publication complained of circulated at all in the Northern District of Mississippi, it was for the reason that upon the day and date of said publication, and at all times prior and since said date, it had divers and sundry subscribers in the Northern District of Mississippi, to whom said paper was sent by United States Mail, postage prepaid, by delivering the same to the United States Post Office, at Jackson, Mississippi, and by reason of the fact that the defendant on the day and date of the issuance of the publication complained of transmitted a number of copies of its newspaper to one B. M. Trapp, at Duck Hill, Mississippi, in Montgomery County, who purchased said papers from the defendant, paid the defendant therefor; that the said B. M. Trapp is an independent dealer in newspapers, having bought said papers from this defendant and sold the same in his own name, on his own account, and not as agent, servant or employee of the Mississippi Publishers Corporation; that the said Trapp had certain subscribers therefor who are his own personal customers, the names of whom are unknown to affiant, and that the said dealer received said newspapers, sold and delivered the same to his customers at such time, price, and upon such terms, and upon such conditions as were determined by him, whether for cash or [fol. 31] credit, and that the said Trapp paid the defendant for the number of papers delivered to him, regardless of whether he was to sell them or not, or collect for the same after selling them; that the said B. M. Trapp sold said papers in his own name, for his own account, and not as agent, servant or employee of the Mississippi Publishers Corporation, and in the sale and delivery of said newspapers he selected, employed and paid his own assistants, if he had any, having the right to discharge the same; that he used his own facilities, selected his own method of distribution of said newspapers, the time and occasion upon which the same would be delivered, and the manner of the delivery thereof, over which this defendant had no right of control or direction and did not endeavor to exercise the same in any manner.

Affiant makes oath that the said B. M. Trapp had no power or authority to transact any business for the said Mississippi Publishers Corporation, to make any contracts or arrangements for it, or to represent it in any way what-

soever. The plaintiff attempted to get service of process upon the Mississippi Publishers Corporation by causing a copy thereof to be served upon the said B. M. Trapp, but that the said B. M. Trapp had no authority to represent the said Mississippi Publishers Corporation, was not authorized to receive process for it, and no valid process could be had upon the said defendant by attempting service upon the said B. M. Trapp. Affiant states that newspapers sold by the said corporation to the said B. M. Trapp, as well as divers and sundry other dealers in the Northern District of Mississippi, are transported to said dealers, either by a common carrier, or private contract carrier. Affiant states that the Mississippi Publishers Corporation is not a citizen, resident or inhabitant of the Northern District of Mississippi.

Affiant states that the plaintiff has attempted to get service of process upon the said defendant by serving process upon H. V. Watkins, Jr., in the City of Jackson, in the First [fol. 32] Judicial District of Hinds County, Mississippi, where the said agent for service of process resides, and not elsewhere.

Affiant states, as appears from the complaint in said cause, the Mississippi Publishers Corporation is the only defendant to said cause, and that no legal process would issue to the United States Marshal of the Northern District of Mississippi for service upon the Mississippi Publishers Corporation, or its agent for service of process, in the Northern District of Mississippi, and no jurisdiction of any kind, territorially or otherwise, could be obtained over the Mississippi Publishers Corporation by reason of said attempted service of process.

The Mississippi Publishers Corporation has never consented to be sued in the Northern District of Mississippi and has never waived the lack of jurisdiction, territorially or otherwise, of said Court over it.

Affiant states that he is well acquainted with the plaintiff, Dennis Murphree; that he moved to the First Judicial District of Hinds County, Mississippi, when elected Lieutenant Governor of the State of Mississippi about January, 1924; that he acquired and built a home near the City of Jackson, where he has resided ever since and so resides at the present time, and where he has reared his family; that the said Dennis Murphree was Lieutenant Governor during the administration of Governor Whitfield and during the

administration of Governor Conner, as well as during the administration of Governor Paul B. Johnson; that he was not Lieutenant Governor during the administration of Governor Bilbo; that the duties of his office as Lieutenant Governor did not require him to move to Jackson for the performance thereof, but that he has continually, since January, 1924, up to the present date, resided in a residence situated upon a piece of ground, purchased by him upon the first day of November, 1924, from E. S. Brashier, certified copy of which deed is shown in the exhibits attached [fol. 33] to motion to dismiss in this case. Affiant states that during all of these years the said Dennis Murphree has been engaged in business in the City of Jackson, with an office in the Walthall Hotel Building; that he has been engaged for a number of years in organizing travel tours over the United States and in various lines of insurance business.

Walter G. Johnson.

Sworn to and subscribed before me, this the 5th day of September, 1944. Laura James, Notary Public, My Commission Expires June 4, 1946. (Seal.)

H. V. Watkins & Ralph B. Avery, Lawyers  
815-821 Standard Life Building,  
Jackson, Mississippi

Henry Vaughan Watkins,  
Ralph B. Avery,  
Myer A. Lewis, Jr.,  
Henry Vaughan Watkins, Jr.

John M. Putnam.

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September 7, 1944.

Mr. Hubert D. Stephens, Clerk of the United States District Court, Oxford, Mississippi

DEAR MR. STEPHENS:

In re: Dennis Murphree v. Mississippi Publishers Corporation—Civil Action No. 234.

On September 5th, 1944, we mailed you Defendant's Motion to Dismiss complaint in the above matter. In attaching [fol. 34] the proofs thereto, we inadvertently omitted at-

taching the affidavit of N. R. Lamar, of Calhoun County, Mississippi.

We are enclosing you herewith the above mentioned affidavit of N. R. Lamar, and will thank you to attach the same to the Motion to Dismiss.

We will thank you to acknowledge receipt of this affidavit.

Yours very sincerely, Watkins & Eager, Watkins & Avery.

HVW/j  
Encl.

**AFFIDAVIT OF N. R. LAMAR**

Filed this 9 day of Sept., 1944

STATE OF MISSISSIPPI,  
Calhoun County:

Personally came and appeared before me, the undersigned authority in and for the jurisdiction aforesaid, N. R. Lamar, to me well known, who being first duly sworn, states on his oath as follows:

That he is sixty-four years of age, and a resident of Calhoun County, Mississippi, since the year 1903. That until three years ago he resided in Pittsboro, Calhoun County, Mississippi. That he has known Dennis Murphree for many years. That Dennis Murphree resided in Pittsboro, Calhoun County, Mississippi, until his first election as Lt. Governor of the State of Mississippi. That at the time of his election Dennis Murphree moved to Jackson, Mississippi, where he has resided continuously from that time to the present. That at the time of his election, Dennis Murphree sold all property which he owned in Calhoun [fol. 35] County, Mississippi, excepting a small tract of land about one-half an acre in Pittsboro, Mississippi.

That Dennis Murphree some several years ago, probably five or six, built a house on the tract of land which he still owned in Pittsboro, Mississippi. That this house is occupied by no person whatsoever excepting that one or two nights a year Dennis Murphree will come to Pittsboro and stay therein. During the rest of the year the shades are drawn, the grass uncut, and the premises entirely vacant.



That Dennis Murphree does not claim a homestead exemption on this property, which he would be entitled to under the laws of the State of Mississippi if this was his property and occupied as his homestead. The affiant has checked the records of the Tax Assessor of Calhoun County, Mississippi, and finds that no such claim of exemption has been made by Dennis Murphree.

That Dennis Murphree votes in Calhoun County, Mississippi.

That Dennis Murphree is not a member of any Church in or near Pittsboro, Mississippi, nor is any member of his immediate family. That Dennis Murphree was not a member of any church in or near Pittsboro at the time of his removal to Jackson, Mississippi, but the members of his family were. These members of his family were dropped from the membership roll of the church about one year after their removal to Jackson, Mississippi. The affiant believes, on information, that Dennis Murphree and his family joined the Galloway Memorial Methodist Church shortly after moving to Jackson.

The affiant further states that Dennis Murphree has no business, nor business connections of any kind in Pittsboro, Mississippi, nor any known business or connections in the [fol. 36] County of Calhoun, excepting the ownership of real estate in Calhoun City, Mississippi, and the fact that his name is carried as one of the owners of the "Calhoun Monitor," published in Calhoun City, Calhoun County, Mississippi.

That the affiant lives one and one-half miles from Pittsboro, Mississippi, on a farm, and is in the town of Pittsboro every day or so, that he is familiar with those persons living in the town of Pittsboro, that he is familiar with the business activities of the town, and that, based on his own knowledge, Dennis Murphree is not a resident of the town of Pittsboro, nor engaged in any business activity therein.

That the affiant has not heard of Dennis Murphree even being in the town of Pittsboro since the summer of the year 1943. That Dennis Murphree does, however, visit the county in all election years.

Further affiant saith not.

N. R. Lamar.

Sworn to and subscribed before me, this the 1st day of September, A. D. 1944. H. C. Davis, Circuit Clerk, Calhoun County. (Seal.)

I, H. V. Watkins, Jr., of counsel for the defendant in the above-entitled cause, certify that I have this day sent by United States mail, postage prepaid, to ~~Creekmore & Creekmore~~, Attorneys at Law, Standard Life Building, Jackson, Mississippi, and to W. E. Gore, Deposit Guaranty Bank Building, Jackson, Mississippi, Plaintiff's Attorneys, a true and correct copy of the foregoing affidavit of N. R. Lamar.

This, the 7th day of September, 1944.

H. V. Watkins, Jr.

[fol. 37]

# WARRANTY DEED

STATE OF MISSISSIPPI,  
County of Hinds:

For and in consideration of the sum of Twelve Hundred and Twenty-five dollars (\$1225.00), cash in hand paid, the receipt of same which is hereby acknowledged, we convey and warrant to Dennis Murphree that certain tract of land described by metes and bounds as follows:

Beginning at a point on the south line of the right of way of the Robinson Street public road, where the same is intersected by the east line of Section 6, Township 5, Range 1 east; run thence south along said section line for a distance of 556 feet; thence west along a fence line 194.6 feet; thence northerly and parallel to said Section line of 560.4 feet; thence east along the south line of said road 65.7 feet; thence south 88 degrees east along the south line of said road 129 feet to point of beginning; containing two and one-half acres and being in the east half of the east half of the east half ( $E\frac{1}{2}$  of  $E\frac{1}{2}$  of  $E\frac{1}{2}$ ) of section 6, Township 5, Range 1 east situated in the County of Hinds, in the State of Mississippi.

Witness our signatures the 1st day of Nov., A. D. 1924.

E. S. Brashier, Mrs. E. S. Brashier.

(Rev. Stamps \$1.50.)

STATE OF MISSISSIPPI,  
County of Hinds:

Personally appeared before me, an authority in and for the County of Hinds and the City of Jackson in said State, the within named Dr. E. S. Brashier, and his wife, Mrs. E. S. Brashier, who acknowledged that they signed and

[fol. 38] delivered the foregoing instrument on the day and year therein mentioned.

Given under my hand and official seal at Jackson, Mississippi, this 1st day of Nov., A. D. 1924.

W. J. Buck, Clerk of the Supreme Court. (Seal.)

Recording Fee	.50
Certificate	.50
<b>Total</b>	<b>1.00</b>

Filed Nov. 3, 1924, at 12:50 P. M.

Recorded Dec. 26, 1924.

W. W. Downing, Clerk, by E. D. Roberts, D. C.

### Certificate of True Copy

THE STATE OF MISSISSIPPI,  
Hinds County:

I, Frank T. Scott, Clerk of the Chancery Court in and for said County and State, do hereby certify that the above and foregoing is a true and correct copy of Warranty Deed as appears of record in my office, and that the same is duly recorded in Deed Book No. 160, Page 329 of Record of deeds.

Given under my hand and the seal of said Court at my office in Jackson, in said County and State, this the 24 day of August, 1944.

Frank T. Scott, Clerk, by Julie Ainsworth, D. C.  
(Seal.)

[fol. 39] AFFIDAVIT OF DENNIS MURPHREE

Filed This 4 Day of Dec., 1944

STATE OF MISSISSIPPI,  
County of Hinds,  
City of Jackson:

Personally came before me, the undersigned authority in and for said City, County and State, Dennis Murphree, who being by me first duly sworn, makes affidavit as follows:

I was born fifty-eight years ago in the town of Pittsboro, Calhoun County, Mississippi, My ancestors, immediate and remote, lived in said county or the territory which now com-

prises said county for more than 100 years next before this date and were among the first settlers therein. The affiant's grandfather was a member of the Board of Police of Chickasaw County and was appointed and acted as a commissioner to locate the county seat when Calhoun County was created. T. M. Murphree, the father of this affiant, was born and raised in said county, went from there into the Confederate Army during the War Between the States, and after his return from the army continued to live in said county the remainder of his life, serving the people of said county for years in different capacities, among them being that of Circuit Clerk for eight years and a member of the State Legislature for two terms. When this affiant was a boy, only nineteen years of ages, he took over the publication of the Calhoun Monitor, a newspaper which for some years had been published in Pittsboro by his father, who had recently died. Since that time, until the present, affiant has owned a substantial interest, nearly one-half, in said newspaper, which has now been published continuously for more than forty-four years, but in the year 1921 was moved from Pittsboro to Calhoun City, both in Calhoun County. [fol. 40] In 1911 the people of Calhoun County elected this affiant, then a young man of only twenty-five years of age, to the Legislature of Mississippi and again elected him to the same place in 1915 and 1919.

In 1923 affiant was elected by the people of Mississippi, Lieutenant Governor, and he entered upon the discharge of his duties on January 22, 1924, and for official reasons then came from Calhoun County his actual household and residence, to Hinds County, Mississippi, for the purpose of performing the duties of his office as such Lieutenant Governor, and affiant did not thereby or thereupon elect to become an actual householder or resident of Hinds County, but intended, and did, and has ever since continued, to be a resident and citizen of Calhoun County, Mississippi. On March 18, 1927, this affiant became Governor of Mississippi by reason of the death of the then Governor, H. L. Whitfield, and he continued in that office until the 17th day of January, 1928. In the meantime, during the year 1927, affiant was a candidate for Governor.

In 1926, affiant became the State agent for the Royal Union Life Insurance Company. In order to carry on this work, it was necessary that he be centrally located as he was required to do considerable traveling over the State in

the discharge of his duties, and Jackson was centrally located and had the best transportation facilities there were in the State. For this reason and because he was then organizing his friends in preparation for becoming a candidate for Governor in 1931, affiant continued in these two endeavors until the early part of 1931, when for reasons not necessary to be here stated he decided not to be a candidate for Governor that year, but to be a candidate for Lieutenant Governor. He made the campaign for Lieutenant Governor in 1931 and was elected, taking office as such on the 19th day of January, 1932, and continued to serve in such capacity until January, 1936, when his term expired. During the year 1935, affiant was a candidate for Governor, but was defeated. Shortly after the expiration of his term as Lieutenant Governor, in 1938, he was appointed by the President as Director of the National Emergency Council for Mississippi. In order to perform the duties of this office it was necessary that he maintain his official residence in Jackson, Hinds County, Mississippi. He continued to serve as such until in the Spring of 1939, when he resigned in order to make the race for Lieutenant Governor. He was elected Lieutenant Governor for the third time and took office as such in January, 1940, and continued to serve as such until December 26, 1943, when by reason of the death of the late Governor Paul B. Johnson, affiant became Governor and served from that day until January 18, 1944.

The affiant built and furnished, ready for immediate occupancy, a house in the town of Pittsboro, in 1939, on a lot in said town, on which he was born, to which he intends to return as his permanent home. Said home consists of three bedrooms, a kitchen, a living room, a bathroom and it has a screened porch in the front and rear and has installed in it modern electrical equipment suitable for use as a home and for no other purpose. In 1942, this affiant purchased a cemetery lot in the town of Pittsboro, for the purpose of supplying himself with a place of burial.

In every campaign which this affiant has made for public office, he publicly stated, in his campaign speeches and at all other times when the question was discussed, that he was a citizen of Calhoun County.

When the homestead exemption claim was filed, this affiant was engaged in the performance of duties as a public officer, and was advised that said exemption could be claimed either in Hinds or Calhoun County, and the affiant



probably did not give the matter of claiming a homestead exemption sufficient attention, as a matter of law, but he [fol. 42] did not, in so filing said claim, intend to change his citizenship from Calhoun to Hinds County.

The affiant has registered and voted in all elections in Calhoun County, when he voted at all, ever since he reached the age of twenty-one years.

The affiant was elected by the Democratic Convention of Calhoun County, in 1944, to the State Convention.

All poll taxes and automobile privilege taxes have been assessed against this affiant, and all gasoline ration books have been issued to him, in Calhoun County. All war bonds purchased and Red Cross donations which have been made by the affiant were made as a part of the quotas of Calhoun County.

The affiant's wife pays her poll tax and registers and votes in Calhoun County and the son of the affiant pays his poll tax, registers and votes there and the affiant's married daughters voted there until the time of their marriage.

This affiant has no interest in the firm of Spencer, Murphree and Spencer and has no connection with it, except that he is a stockholder therein.

Dennis Murphree.

Sworn to and subscribed before me this December 2, 1944. Lulah Turner, Notary Public. Com. Exprs. 9-23-45. (Seal.)

[fol. 43] IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION OF THE NORTHERN DISTRICT OF MISSISSIPPI

Civil Action No. 234

DENNIS MURPHREE, Plaintiff,

vs.

MISSISSIPPI PUBLISHERS CORPORATION, Defendant

### JUDGMENT

This day this cause came on to be heard on the motion to dismiss of Mississippi Publishers Corporation, Defendant, and the Court having heard and considered the same and

being of the opinion that the same is well taken and should be sustained,

It is, therefore, Ordered and Adjudged, that the motion to dismiss of the defendant be and the same is hereby sustained, and plaintiff's complaint is hereby dismissed without prejudice at the cost of the plaintiff, for which let execution issue, and to all of which plaintiff excepts.

Ordered and Adjudged, this 5th day of December, 1944.

Allen Cox, District Judge.

# IN UNITED STATES DISTRICT COURT

OPINION—Filed December 5, 1944

The plaintiff in this cause is a resident citizen of the Northern District of Mississippi. The defendant is a non-resident corporation which does no business in the Northern District of Mississippi; but which engages in business [fol. 44] in the Southern District of Mississippi and which in obedience to the Mississippi law has designated an agent for service of process who resides in Jackson, Mississippi in the Southern District of Mississippi. The cause of action alleged in the declaration arose in the Southern District of Mississippi. Process was served on defendant in the Southern District of Mississippi by virtue of Sec. F, of Rule 4 of the Rules of Civil Procedure.

In the Court's judgment the Rules of Civil Procedure have not in any way enlarged either the jurisdiction or venue of the District Court.

As I read the opinion of the Supreme Court of the United States in *Neirbo Co. vs. Bethlehem Corporation*—308 U. S. 167—what the Court holds is in substance that for purposes of jurisdiction the Court will still recognize the legal fiction of citizenship of a corporation in the State of its incorporation; but that for purposes of venue it will adopt the practical and realistic view that such corporations are domiciled in any District where they do business and have in accordance with the mandates of State law appointed agents for the service of process.

If this be the correct view of the holding in the *Neirbo* case it follows that under Section #113 of the Judicial Code the defendant in this case, is in that limited sense, an inhabitant of the State of Mississippi, and entitled to be sued in the District of the State where it resides.

It follows that there is not proper venue in the Northern District of Mississippi and the motion to dismiss for want of venue is sustained.

This holding is in line with *St. Louis S. W. Railroad vs. Alexander*—227 U. S. 218—and in the Court's judgment presents a clear and workable application of the Rules of [fol. 45] Civil Procedure and the rules of law as announced in the *Neirbo* and the *St. Louis S. W. Railroad* case above referred to.

This December 5, 1944.

Allen Cox (Allen Cox), District Judge.

IN UNITED STATES DISTRICT COURT

[Title omitted]

NOTICE OF APPEAL—Filed December 8, 1944

Now comes Dennis Murphree, plaintiff in the above styled cause, and pursuant to the provisions of Rule 73 of Rules of Civil Procedure for the District Courts of the United States, and gives notice of the taking by him of an appeal to the United States Circuit Court of Appeals for the Fifth Circuit in the above styled cause from the Order sustaining the motion of the defendant, Mississippi Publishing Corporation, to dismiss plaintiff's complaint and the judgment rendered thereon against him on the 5th day of December, 1944, in favor of the defendant, Mississippi Publishing Corporation, as the same appears in the minutes of said District Court.

Dated this the 6th day of December, 1944.

W. E. Gore, Henry Memorial Building, Jackson, Mississippi; Rufus Creekmore, 821 Standard Life Building, Jackson, Mississippi; H. H. Creekmore, 821 Standard Life Building, Jackson, Mississippi, Attorneys for Plaintiff.

Bond on Appeal for \$250.00 omitted in printing.

[fol. 48] IN UNITED STATES DISTRICT COURT

DESIGNATION OF CONTENTS OF RECORD ON APPEAL—Filed  
December 8, 1944

Now comes Dennis Murphree, by his attorneys, and files this his designation of those portions of the record, proceedings and evidence to be contained in the record on appeal of this cause to the United States Circuit Court of Appeals for the Fifth Circuit, and for said purpose designates the entire record, consisting of the following:

1. The complaint.
  2. Summons for defendant with return thereon showing service on B. M. Trapp.
  3. Summons for defendant with return thereon showing service on H. V. Watkins, Jr.
  4. Motion of defendant to dismiss.
  5. Affidavit of Walter G. Johnson.
  6. Affidavit of Mrs. Maryetta Bishop.
  7. Affidavit of N. R. Lamar.
  8. Copy of deed from E. S. Brashier and Mrs. E. S. Brashier to Dennis Murphree.
  9. Copy of application for homestead exemption of Dennis Murphree dated May 3, 1944.
  - [fol. 49] 10. Copy of application for homestead exemption of Dennis Murphree dated May 24, 1943.
  11. Copy of application for homestead exemption of Dennis Murphree dated May 2, 1942.
  12. Unsigned application for homestead exemption dated January 7, 1941.
  13. Affidavit of Dennis Murphree.
  14. Opinion of Judge Allen Cox including his findings of fact and conclusions of law.
  15. Notice of Appeal.
  16. Appeal Bond.
  17. Designation of contents of record on appeal.
- Dated this December 6, 1944.

W. E. Gore, Henry Memorial Building, Jackson, Mississippi. Rufus Creekmore, 821 Standard Life Building, Jackson, Mississippi. H. H. Creekmore, 821 Standard Life Building, Jackson, Mississippi, Attorneys for Plaintiff, Appellant.

A true copy of the foregoing Designation served on the defendant by mailing postage prepaid, a copy of the same to its attorneys, as follows:

[fol. 50] Watkins and Eager, Standard Life Building, Jackson, Mississippi. H. V. Watkins and Ralph B. Avery, Standard Life Building, Jackson, Mississippi.

This 6th day of December, 1944.

W. E. Gore, Henry Memorial Building, Jackson, Mississippi. Rufus Creekmore, 821 Standard Life Building, Jackson, Mississippi. H. H. Creekmore, 821 Standard Life Building, Jackson, Mississippi, Attorneys for Appellant.

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IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER AS TO RECORD

The Court being of the opinion that the entire record, including the opinion of the Court filed therein should be sent to the United States Circuit Court of Appeals for the Fifth Circuit, sitting at New Orleans, La., in the appeal taken in this case, the Clerk of this Court is directed in connection with this appeal to transmit to the Clerk of the Circuit Court of Appeals at New Orleans the entire record in this cause.

Ordered this Dec. 8, 1944.

Allen Cox, Judge.

[fol. 51] Clerk's Certificate to foregoing transcript omitted in printing.



[fol. 52] That thereafter the following proceedings were had in said cause in the United States Circuit Court of Appeals for the Fifth Circuit viz:

ARGUMENT AND SUBMISSION

Extract from the Minutes of April 11th, 1945

No. 11254

DENNIS MURPHREE

versus

MISSISSIPPI PUBLISHING CORPORATION

On this day this cause was called, and, after argument by Rufus Creekmore, Esq., for appellant, and W. H. Watkins, Esq., for appellee, was submitted to the Court.

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[fol. 53] OPINION OF THE COURT—Filed May 7, 1945

IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE  
FIFTH CIRCUIT

No. 11254

DENNIS MURPHREE, Appellant,

versus

MISSISSIPPI PUBLISHING CORPORATION, Appellee

Appeal from the District Court of the United States for  
the Northern District of Mississippi

(May 7, 1945)

Before Sibley, Hutcheson, and Lee, Circuit Judges

LEE, Circuit Judge:

Appellant, alleging himself to be a resident citizen of Calhoun County in the Northern District of Mississippi, brought this suit in the United States District Court for said district against the appellee, a Delaware corporation duly

qualified to engage in business in Mississippi, to recover damages alleged to have resulted from a libel published [fol. 54] editorially in a newspaper of the appellee in the city of Jackson in the Southern District of Mississippi. Process was served in the Southern District upon appellee's resident agent for process by the marshal for that district. Appellee moved to dismiss, alleging that the court had no jurisdiction over the subject matter or of the person of the defendant; that the venue was improperly laid; that the process was void under the law; and that the attempted service was insufficient.

The motion was tried on affidavits from which the court below found that appellant was a resident citizen of the Northern District of Mississippi; that the appellee was engaged in business in the Southern District of Mississippi, with its only office there, and, in obedience to the laws of Mississippi, had designated an agent for service of process who resided in the city of Jackson; that the cause of action alleged arose there; and that process on appellee was served in the Southern District by virtue of Section (f) of Rule 4 of the Rules of Civil Procedure. Thereupon, the court below, interpreting the opinion in the *Neirbo* case<sup>1</sup> to mean that for purposes of jurisdiction the Supreme Court will still recognize the legal fiction of citizenship of a corporation in the state of its incorporation, but for purposes of venue it would adopt the practical and realistic view that such a corporation is domiciled in any district where it does business and has in accordance with the mandate of the state law appointed an agent for the service of process, concluded: " \* \* \* it follows that under Section #113 of the Judicial Code, the defendant in this case, is in that limited sense, an inhabitant of the State of Mississippi, and entitled to be sued in the District of the State where it resides"; held "that there is not proper venue in the Northern District of Mississippi"; and dismissed the suit, without prejudice, for want of venue. This [fol. 55] appeal followed. The sole question before us for determination is whether the District Court for the Northern District of Mississippi should have entertained the suit.

Since this is a civil suit between a citizen of Mississippi and a Delaware corporation and the amount in contro-

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<sup>1</sup> *Neirbo Co. v. Bethlehem Shipbuilding Corp.*, 308 U. S. 165.

versy exceeds \$3,000, federal jurisdiction over the subject matter is present. Under Section 51 of the Judicial Code, 28 U. S. C. A., Sec. 112(a), where the jurisdiction is founded only on the fact that the action is between citizens of different states, venue may be laid "in the district of the residence of either the plaintiff or the defendant." When laid, as here, at the residence of the plaintiff, the process from that court directed to the marshal of the Southern District and served by him upon the resident agent for service of process of the appellee in that district, conferred upon the court jurisdiction of the person of the appellee. Rule 4(f), Federal Rules of Civil Procedure.<sup>2</sup> The *Neirbo* case indicates nothing to the contrary. In fact the Supreme Court in that case seemed to recognize that the question before it would not have been raised had the suit been brought in the district of the residence of the plaintiff or that of the defendant. In the very beginning of the opinion, Mr. Justice Frankfurter said:

"The suit was based on diversity of citizenship and was not brought 'in the district of the residence of either the plaintiff or the defendant.'"

And no language in the opinion which follows disturbed or modified the lower court's holding that "had plaintiffs been residents of the Southern District of New York, so that venue was properly laid, service of process upon the defendant would have been had by service upon its agent."<sup>3</sup> [fol. 56] The rationale of the opinion in the *Neirbo* case is that a foreign corporation, by the appointment of an agent for the service of process in accordance with the laws of the state in which the corporation is doing business, waives the provisions of the venue statute which otherwise it would be entitled to assert; by such act it affirmatively consents to be sued in the courts in that state, state and federal. Prior to the *Neirbo* case the courts generally had held that such an appointment did not constitute a waiver by a corporation of its right to be sued

<sup>2</sup> Moore's Federal Practice, Vol. I, p. 360, et seq.; Hughes, Federal Practice and Procedure, Vol. 17, Secs. 18.992 to 18.994, incl.: *Schwarz v. Aircraft Silk Hosiery Mills*, 110 F. 2d 465; *O'Leary v. Lofton*, 3 F. R. D. 36.

<sup>3</sup> *Neirbo v. Bethlehem Shipbuilding Co.*, 103 F. 2d 765, 770.

in the district of which it was an inhabitant;<sup>4</sup> but even when so holding, the courts recognized the right of a plaintiff in diversity of citizenship cases to subject a corporate defendant to suit in a federal court of the district of which the plaintiff was a resident.<sup>5</sup>

Section 113, Title 28 U. S. C. A., relied on by the court below does not conflict with but supplements Section 112(a). Under Sections 112(a) and 113, where diversity of citizenship exists and suit is not brought in the district of the residence of the plaintiff but in the district of the residence of the defendant, and the defendant resides in a state containing more than one district, and the suit is not one of a local nature, then venue must be laid in that district of the state where the defendant resides.

More troublesome, perhaps, is the question whether the court of the Northern District could obtain jurisdiction over the person of the defendant by service of process outside the district. This question relates to the power of the Supreme Court to promulgate Rule 4(f) of the Federal Rules of Civil Procedure. While the rule affects neither venue nor jurisdiction over the subject matter, it does [fol. 57] permit the court to acquire personal jurisdiction over a defendant in another district within the state in a case like the present,—a power that did not exist prior to the adoption of the rules. As was pointed out in Moore's Federal Practice, Vol. 1, page 361, "Since the Advisory Committee specifically called the attention of the Supreme Court to the question of its power to promulgate this rule, it may be safely assumed that the Supreme Court, by promulgating the rule, has concluded that it has the power."

In this court appellee contends that the consent to be sued flowing from the appointment of an agent for service of process under state law is limited by the state venue statutes and this limitation governs the venue of the federal courts in the state; and appellee argues that as the Mississippi statute in fixing venue of suits in the state courts fixes venue either in the district where the cause

<sup>4</sup> See cases cited in 103 F. 2d 765.

<sup>5</sup> *McCormick v. Walthers*, 134 U. S. 41; *Munter v. Weil Corset Co.*, 261 U. S. 276; *Seaboard Rice Milling Co. v. C. R. L. & P. R. R. Co.*, 270 U. S. 363; *Mass. Bonding & Ins. Co. v. Concrete Steel Bridge Co.*, 37 F. 2d 695.

of action accrued or where the defendant had its principal place of business, venue in this case was improperly laid in the District Court for the Northern District of Mississippi, since the cause of action accrued in the Southern District of Mississippi and appellee had his principal place of business in that district. What the situation might be if there were no federal statute fixing venue is not before us. It is hornbook law that where a federal statute fixes the venue of the federal courts, state laws are inapplicable. Cf. *Munter v. Weil Corset Co.*, 261 U. S. 276, 278.

Considerable space is devoted in the briefs to a consideration of the issue of fact with respect to the place of residence of the plaintiff. The finding of the court below on [fol. 58] this issue is supported by substantial evidence—evidence which has convinced us that the lower court's finding on this issue is correct.

The judgment appealed from is reversed, and the cause is remanded for proceedings in accordance with the views herein expressed.

Reversed and Remanded.

[fol. 59]

JUDGMENT

Extract from the Minutes of May 7th, 1945

No. 11254.

DENNIS MURPHREE

versus

MISSISSIPPI PUBLISHING CORPORATION

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Mississippi, and was argued by counsel;

On consideration whereof, It is now here ordered and adjudged by this Court, that the judgment of the said District Court appealed from in this cause be, and the same is hereby, reversed; and that this cause be, and it is hereby, remanded to the said District Court for proceedings in accordance with the opinion of this Court;



It is further ordered and adjudged that the appellee, Mississippi Publishing Corporation, be condemned to pay the costs of this cause in this Court, for which execution may be issued out of the said District Court.

[fol. 60] MOTION FOR STAY OF MANDATE—Filed May 14, 1945

IN THE UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH  
CIRCUIT

Number: 11,254

DENNIS MURPHREE, Appellant,

VS.

MISSISSIPPI PUBLISHING CORPORATION, Appellee

APPLICATION FOR STAY OF EXECUTION AND ENFORCEMENT OF  
JUDGMENT

Come the Mississippi Publishing Corporation, appellee in the above entitled case, and Maryland Casualty Company, its surety, and petition the court for a stay of execution and enforcement of the judgment rendered appellant in the above entitled case, for a period of ninety days pending application for certiorari from the Supreme Court of the United States.

The appellee tenders herewith a good and sufficient bond in the sum of One Thousand Dollars (\$1,000.00) with the Maryland Casualty Company as surety thereon, conditioned according to Section 350, U. S. C. A., Title 28.

The said appellee and its surety respectfully ask the court to make an order granting said extension, the said parties assuring the court that said application will be promptly made and filed in the Supreme Court of the United States.

(Signed) W. H. Watkins, P. H. Eager, Jr., Ralph  
B. Avery, Attorneys for Appellee.

[fol. 61] ORDER STAYING MANDATE—Filed May 14th, 1945  
IN THE UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH  
CIRCUIT

Number: 11,254

DENNIS MURPHREE, Appellant,

vs.

MISSISSIPPI PUBLISHING CORPORATION, Appellee

ORDER STAYING ENFORCEMENT OF JUDGMENT PENDING APPLI-  
CATION FOR CERTIORARI

This Day came on to be heard application of Mississippi Publishing Corporation, appellee in the above entitled case, for stay of execution and enforcement of the judgment rendered by the United States Circuit Court of Appeals in the above entitled case, pending application for certiorari from the Supreme Court of the United States, and it appearing to the court that the application is accompanied by a bond in the penal sum of One Thousand Dollars (\$1,000.00), conditioned according to law, with good and sufficient surety, to-wit, the Maryland Casualty Company, for the payment of such judgment as may be rendered, it is ordered and adjudged by the court that the execution and enforcement of such judgment against the appellee be and is hereby stayed for three months from May 7, 1945 to enable appellee to apply for and obtain a writ of certiorari from the Supreme Court of the United States.

It is ordered and adjudged by the court that the bond of said party and its surety, as aforesaid, be and is hereby approved.

Ordered and Adjudged, this the 14 day of May, 1945.

(Signed) Saml. H. Sibley, U. S. Circuit Judge.

[fol. 62] BOND FOR STAY OF MANDATE—Filed May 14, 1945  
IN THE UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH  
CIRCUIT

~~Number~~ Number: 11,254

DENNIS MURPHREE, Appellant,

vs.

MISSISSIPPI PUBLISHING CORPORATION, Appellee

We, Mississippi Publishing Corporation, Principal, and Maryland Casualty Company, Surety, hold ourselves well and truly bound unto the United States of America in the sum of One Thousand Dollars (\$1,000.00), for the payment of which amount we bind ourselves, our heirs and assigns.

The condition of the foregoing obligation is that:

Whereas, the above bound principal has made application for extension of the execution and enforcement of the judgment rendered against the above bound principal in the above entitled case;

Now, if said application for certiorari shall be made as stated herein and said principal shall pay and satisfy such judgment with interest and costs, if said application shall be denied, or said case affirmed by the Supreme Court of the United States, then this obligation to become void; otherwise, to remain in full force and effect.

Signed, this the — day of May, 1945.

Mississippi Publishing Corporation, by (Signed)  
W. H. Watkins, P. H. Eager, Jr., Ralph B. Avery,  
Attorneys. Principal. Maryland Casualty Com-  
pany, by (Signed) Kate McW. Hand. Surety.

(Seal.)

Approved, this the 14 day of May, 1945.

(Signed) Saml. H. Sibley, U. S. Circuit Judge.

## [fol. 64] SUPREME COURT OF THE UNITED STATES

## ORDER ALLOWING CERTIORARI—Filed October 8, 1945

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit is granted, and the case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Jackson and Mr. Justice Burton took no part in the consideration or decision of this application.

Endorsed on cover: Enter William H. Watkins. File No. 49937. U. S. Circuit Court of Appeals, Fifth Circuit. Term No. 234, Mississippi Publishing Corporation, Petitioner, vs. Dennis Murphree. Petition for writ of certiorari and exhibit thereto. Filed July 17, 1945. Term No. 234 O. T. 1945.